

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Randy L. Valentine,)	Civil Action No.: 4:05-00485-HMH-TER
)	
Plaintiff,)	
)	
vs)	
)	OPINION & ORDER
Ofc. D. Richardson, Lt. Pressly,)	
Ofc. R. Goins, Ofc. Bennett, Ofc.)	
Labonte, Ofc. Creasy, Ofc. Gardo,)	
Ofc. Williams, Ofc. Youngblood,)	
Ofc. Jonathan Tally, Sgt. Nation,)	
Ofc. B. Jones, Ofcs. "John Doe",)	
Nurse Gay, Dr. Legesse Tebeje,)	
Nurse Judy, Attorney Lawrence)	
Crane, Dr. John Caleb Pease, Ofc.)	
Kristy McCraw; sued in their)	
Individual capacities; and The)	
Greenville Hospital System; and)	
Greenville County,)	
)	
Defendants.)	
)	

The defendants, Officer D. Richardson, Lieutenant Pressly, Officer R. Goins, Officer Bennett, Officer Labonte, Officer Creasy, Officer D. Gardo, Officer Williams, Officer Youngblood, Officer Jonathan Tally, Sergeant Nation, Officer B. Jones, Officers John Doe's, Officer Kristy McCraw, and Greenville County (collectively "Moving Defendants") filed a motion for summary judgment on October 14, 2005.

The Moving Defendants filed their motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Under Rule 56, the moving party bears the burden of showing that summary judgment is proper. Rule 56(c) provides, "the judgment sought shall be

rendered forthwith if the pleadings, deposition, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(e) provides that “supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith.” Local Civil Rule 7.04 of the District of South Carolina requires that, where appropriate, “motions shall be accompanied by affidavits or other supporting documents.” The Moving Defendants submit medical records, incident reports, and policies. However, no affidavit of a record custodian or any other witness or other evidence is offered to support the Moving Defendants’ claim that no genuine issues of material fact exist. The court finds that the Moving Defendants have failed to meet their burden under Rule 56.

It is therefore

ORDERED that Moving Defendants’ motion for summary judgment, docket number 56, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

August 18, 2006
Greenville, South Carolina